

2017 -- H 5609

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LC001338
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - ADMINISTRATIVE PENALTIES
FOR ENVIRONMENTAL VIOLATIONS

Introduced By: Representatives Kazarian, Winfield, Maldonado, Hearn, and Fogarty

Date Introduced: March 01, 2017

Referred To: House Environment and Natural Resources

(Dept. of Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-17.6-3 of the General Laws in Chapter 42-17.6 entitled
2 "Administrative Penalties for Environmental Violations" is hereby amended to read as follows:

3 **42-17.6-3. Notice of violation and assessment of penalty.**

4 (a) Whenever the director seeks to assess an administrative penalty on any person, the
5 director shall cause to be served upon the person, either by service, in hand, or by certified mail,
6 return receipt requested, a written notice of its intent to assess an administrative penalty which
7 shall include:

8 (1) A concise statement of the alleged act or omission for which the administrative
9 penalty is sought to be assessed;

10 (2) Each law, rule, regulation, order, permit, license, or approval which has not been
11 complied with as a result of the alleged act or omission;

12 (3) The amount which the director seeks to assess as an administrative penalty for each
13 alleged act or omission;

14 (4) A statement of the person's right to an adjudicatory hearing on the proposed
15 assessment;

16 (5) The requirements the person must comply with to avoid being deemed to have waived
17 the right to an adjudicatory hearing; and

18 (6) The manner of payment thereof if the person elects to pay the penalty and waive an

1 adjudicatory hearing.

2 (b) After written notice of noncompliance or intent to assess an administrative penalty
3 has been given, each day thereafter during which the noncompliance occurs or continues shall
4 constitute a separate offense and shall be subject to a separate administrative penalty if reasonable
5 efforts have not been made to promptly come into compliance.

6 (c) For purposes of timely and effective resolution and return to compliance, the director
7 may cite a person for alleged noncompliance through the issuance of an expedited citation, which
8 may include assessment of penalties up to ~~two thousand five hundred dollars (\$2,500)~~ five
9 thousand dollars (\$5,000). Each expedited citation shall include a concise statement of the alleged
10 act or omission that constitutes noncompliance and each law, rule, regulation, order, permit,
11 license or approval which has not been complied with; and that person alleged to be in
12 noncompliance shall have the right at any time to opt out of the alleged expedited citation
13 process. Failure to respond to an expedited citation shall be deemed as exercising the right to opt
14 out. An expedited citation shall not take effect without the voluntary agreement of the person
15 alleged to be in noncompliance. Expedited citations issued under this section without notice and
16 prior hearing shall be effective no longer than sixty (60) days from the date of receipt by the
17 person alleged to be in noncompliance. In the event that the alleged noncompliance and penalty is
18 unresolved and the expedited citation expires, the director retains the right to issue a separate
19 notice of violation and order and penalty, subject to appeal pursuant to § 42-17.6-4. A person
20 issued an expedited citation shall have the right at any time during the sixty (60) day expedited
21 citation process to request that the director issue a separate notice of violation and order and
22 penalty, subject to appeal pursuant to § 42-17.6-4.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT - ADMINISTRATIVE PENALTIES
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- 1 This act would increase the administrative penalties that the director of DEM may impose
- 2 for violations of environmental regulations up to five thousand dollars (\$5,000).
- 3 This act would take effect upon passage.

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